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**STATE OF IOWA**

**House Journal**

**THURSDAY, APRIL 6, 2006**

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## JOURNAL OF THE HOUSE

Eighty-eighth Calendar Day - Sixty-second Session Day

Hall of the House of Representatives  
Des Moines, Iowa, Thursday, April 6, 2006

The House met pursuant to adjournment at 8:53 a.m., Speaker Rants in the chair.

Prayer was offered by Dr. James Wallace, pastor of Central Presbyterian Church, Des Moines. He was the guest of Representative Libby Jacobs of Polk.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Speaker Rants.

The Journal of Wednesday, April 5, 2006 was approved.

### INTRODUCTION OF BILLS

[House File 2791](#), by committee on appropriations, a bill for an act concerning community foundations and economic development relating to the endow Iowa tax credit, the allocation of gambling tax revenues, the distribution of county endowment moneys, making an appropriation, and providing an effective date.

Read first time and placed on the **appropriations calendar**.

[House File 2792](#), by committee on appropriations, a bill for an act providing for a statewide core curriculum and standards study.

Read first time and placed on the **appropriations calendar**.

The House stood at ease at 8:57 a.m., until the fall of the gavel.

The House resumed session at 9:49 a.m., Speaker pro tempore Carroll in the chair.

CONSIDERATION OF BILLS  
Unfinished Business Calendar

**House File 2707**, a bill for an act concerning alcoholic beverage control relating to manufacturers providing free cleaning services to retailers, was taken up for consideration.

Jacobs of Polk offered the following amendment **H-8145** filed by her and moved its adoption:

**H-8145**

- 1 Amend **House File 2707** as follows:
- 2 1. By striking everything after the enacting
- 3 clause and inserting the following:
- 4 "Section 1. Section 123.186, Code 2005, is amended
- 5 to read as follows:
- 6 123.186 FEDERAL REGULATIONS ADOPTED AS RULES.
- 7 1. The division shall adopt as rules the substance
- 8 of the federal regulations 27 C.F.R. pt. 6, 27 C.F.R.
- 9 pt. 8, 27 C.F.R. pt. 10, and 27 C.F.R. pt. 11 as they
- 10 relate to transactions between wholesalers and
- 11 retailers.
- 12 2. The division shall adopt as rules the substance
- 13 of 27 C.F.R. § 6.88, to permit a manufacturer of
- 14 alcoholic beverages, wine, or beer, or agent of such
- 15 manufacturer, to provide to a retailer without charge
- 16 wine and beer coil cleaning services, including carbon
- 17 dioxide filters and other necessary accessories to
- 18 properly clean the coil and affix carbon dioxide
- 19 filters. The rules shall provide that the
- 20 manufacturer shall be responsible for paying the costs
- 21 of any filters provided."
- 22 2. By renumbering as necessary.

Amendment **H-8145** was adopted.

**SENATE FILE 2368** SUBSTITUTED FOR **HOUSE FILE 2707**

Jacobs of Polk asked and received unanimous consent to substitute **Senate File 2368** for **House File 2707**.

**Senate File 2368**, a bill for an act concerning alcoholic beverage control relating to manufacturers providing free cleaning services to retailers, was taken up for consideration.

Jacobs of Polk moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2368](#))

The ayes were, 97:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Cohoon	Dandekar	Davitt	De Boef
Dix	Dolecheck	Drake	Eichhorn
Elgin	Fallon	Foege	Ford
Freeman	Frevert	Gaskill	Gipp
Granzow	Greiner	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Kaufmann	Kressig	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Maddox
Mascher	May	McCarthy	Mertz
Miller	Murphy	Oldson	Olson, D.
Olson, R.	Olson, S.	Paulsen	Petersen
Pettengill	Quirk	Raecker	Rants, Spkr.
Rasmussen	Rayhons	Reasoner	Reichert
Roberts	Sands	Schickel	Schueller
Shomshor	Shoultz	Smith	Soderberg
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tomenga	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.
Watts	Wendt	Wessel-Kroeschell	Whitaker
Whitead	Wilderdyke	Winckler	Wise
Carroll,			
Presiding			

The nays were, none.

Absent or not voting, 3:

Chambers	Lykam	Zirkelbach
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The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

### [HOUSE FILE 2707](#) WITHDRAWN

Jacobs of Polk asked and received unanimous consent to withdraw [House File 2707](#) from further consideration by the House.

## SENATE AMENDMENT CONSIDERED

Drake of Pottawattamie called up for consideration [House File 2245](#), a bill for an act concerning the Iowa public employees' retirement system and the statewide fire and police retirement system, and providing an effective and retroactive applicability date, amended by the Senate, and moved that the House concur in the following Senate amendment [H-8473](#):

[H-8473](#)

- 1 Amend [House File 2245](#), as passed by the House, as
- 2 follows:
- 3 1. Page 5, by inserting after line 2 the
- 4 following:
- 5 "Sec. \_\_\_\_ Section 411.3, subsection 3, paragraph
- 6 b, Code 2005, is amended to read as follows:
- 7 b. If a person is reemployed, the person shall not
- 8 become an active member of the system upon
- 9 reemployment, and the person so reemployed and the
- 10 participating city shall not make contributions to the
- 11 system based upon the person's compensation for
- 12 reemployment. A person who is so reemployed shall
- 13 ~~continue not be eligible~~ to receive ~~the a~~ service
- 14 retirement allowance for the period of reemployment.
- 15 The service retirement allowance shall be reinstated
- 16 upon termination of the reemployment, and but the
- 17 service retirement allowance shall not be recalculated
- 18 based upon the person's reemployment. Notwithstanding
- 19 section 97B.1A or any other provision of law to the
- 20 contrary, a person reemployed as provided in this
- 21 subsection shall be exempt from chapter 97B.11"
- 22 2. By renumbering as necessary.

The motion prevailed and the House concurred in the Senate amendment [H-8473](#).

Drake of Pottawattamie moved that the bill, as amended by the Senate and concurred in by the House, be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2245](#))

The ayes were, 98:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Chambers	Cohoon	Dandekar	Davitt

De Boef	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greiner	Heaton
Heddens	Hoffman	Hogg	Horbach
Hunter	Huseman	Huser	Hutter
Jacobs	Jacoby	Jenkins	Jochum
Jones	Kaufmann	Kressig	Kuhn
Kurtenbach	Lalk	Lensing	Lukan
Lykam	Maddox	Mascher	May
McCarthy	Mertz	Miller	Oldson
Olson, D.	Olson, R.	Olson, S.	Paulsen
Petersen	Pettengill	Quirk	Raecker
Rants, Spkr.	Rasmussen	Rayhons	Reasoner
Reichert	Roberts	Sands	Schickel
Schueller	Shomshor	Shoultz	Smith
Soderberg	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Tjepkes	Tomenga
Tymeson	Upmeyer	Van Engelenhoven	Van Fossen, J.K.
Van Fossen, J.R.	Watts	Wendt	Wessel-Kroeschell
Whitaker	Whitead	Wilderdyke	Winckler
Wise	Carroll, Presiding		

The nays were, none.

Absent or not voting, 2:

Murphy                      Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

#### Ways and Means Calendar

**House File 2751**, a bill for an act relating to eligibility for the military service property tax credit and exemption and including effective and applicability date provisions, was taken up for consideration.

Paulsen of Linn moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2751](#))

The ayes were, 97:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Chambers	Cohoon	Dandekar	Davitt
De Boef	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greiner	Heaton
Heddens	Hoffman	Hogg	Horbach
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Kaufmann	Kressig	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Mascher	May	McCarthy
Mertz	Miller	Oldson	Olson, D.
Olson, R.	Olson, S.	Paulsen	Petersen
Pettengill	Quirk	Raecker	Rants, Spkr.
Rasmussen	Rayhons	Reasoner	Reichert
Roberts	Sands	Schickel	Schueller
Shomshor	Shoultz	Smith	Soderberg
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tomenga	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.
Watts	Wendt	Wessel-Kroeschell	Whitaker
Whitead	Wilderdyke	Winckler	Wise
Carroll, Presiding			

The nays were, 1:

Hunter

Absent or not voting, 2:

Murphy                      Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

Roberts of Carroll in the chair at 10:02 a.m.

[House File 2781](#), a bill for an act relating to manufactured or mobile home regulation, and including fee, penalty, and effective date provisions, was taken up for consideration.

Paulsen of Linn offered the following amendment [H-8460](#) filed by him and moved its adoption:

H-8460

- 1 Amend [House File 2781](#) as follows:  
2 1. Page 8, by inserting after line 16 the  
3 following:  
4 "Sec. \_\_\_\_ Section 103A.10, subsection 3, Code  
5 2005, is amended to read as follows:  
6 3. Provisions of the state building code relating  
7 to the manufacture and installation of factory-built  
8 structures shall apply throughout the state. Factory-  
9 built structures approved by the commissioner shall be  
10 deemed to comply with all building regulations  
11 applicable to its manufacture and installation and  
12 shall be exempt from any other state or local building  
13 regulations."  
14 2. Page 11, line 7, by striking the word  
15 "section" and inserting the following: "sections".  
16 3. Page 11, line 8, by inserting after the word  
17 "section" the following: "103A.10, subsection 3, and  
18 section".  
19 4. Page 11, line 9, by striking the word "takes"  
20 and inserting the following: "take".  
21 5. By renumbering as necessary.

Amendment [H-8460](#) was adopted.

SENATE FILE 2394 SUBSTITUTED FOR HOUSE FILE 2781

Paulsen of Linn asked and received unanimous consent to substitute [Senate File 2394](#) for [House File 2781](#).

[Senate File 2394](#), a bill for an act relating to manufactured or mobile home regulation, and including fee, penalty, and effective date provisions, was taken up for consideration.

Paulsen of Linn moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2394](#))

The ayes were, 97:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Carroll	Chambers	Cohoon	Dandekar
Davitt	De Boef	Dix	Dolecheck



Drake	Eichhorn	Elgin	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greiner	Heaton
Heddens	Hoffman	Hogg	Horbach
Hunter	Huseman	Huser	Hutter
Jacobs	Jacoby	Jenkins	Jochum
Jones	Kaufmann	Kressig	Kuhn
Kurtenbach	Lalk	Lensing	Lukan
Lykam	Maddox	Mascher	May
McCarthy	Mertz	Miller	Oldson
Olson, D.	Olson, R.	Olson, S.	Paulsen
Petersen	Pettengill	Quirk	Raecker
Rants, Spkr.	Rasmussen	Rayhons	Reasoner
Reichert	Sands	Schickel	Schueller
Shomshor	Shoultz	Smith	Soderberg
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tomenga	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.
Watts	Wendt	Wessel-Kroeschell	Whitaker
Whitead	Wilderdyke	Winckler	Wise
Roberts, Presiding			

The nays were, 1:

Fallon

Absent or not voting, 2:

Murphy                      Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

#### [HOUSE FILE 2781](#) WITHDRAWN

Paulsen of Linn asked and received unanimous consent to withdraw [House File 2781](#) from further consideration by the House.

#### IMMEDIATE MESSAGES

Gipp of Winneshiek asked and received unanimous consent that the following bills be immediately messaged to the Senate: **House Files 2245, 2751 and Senate Files 2368 and 2394.**

[House File 2758](#), a bill for an act relating to the assessment for property taxation purposes of machinery, equipment, and fixtures used at concrete mixing facilities and hot mix asphalt facilities and

including effective date and retroactive applicability date provisions, was taken up for consideration.

Carroll of Poweshiek offered the following amendment [H-8485](#) filed by him and moved its adoption:

[H-8485](#)

- 1 Amend [House File 2758](#) as follows:
- 2 1. Page 1, line 33, by striking the figure
- 3 "2005," and inserting the following: "2006,".

Amendment [H-8485](#) was adopted.

[SENATE FILE 2391](#) SUBSTITUTED FOR [HOUSE FILE 2758](#)

Carroll of Poweshiek asked and received unanimous consent to substitute [Senate File 2391](#) for [House File 2758](#).

[Senate File 2391](#), a bill for an act relating to the assessment for property taxation purposes of machinery, equipment, and fixtures used at concrete mixing facilities and hot mix asphalt facilities and including effective date and retroactive applicability date provisions, was taken up for consideration.

Carroll of Poweshiek moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2391](#))

The ayes were, 91:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Carroll	Chambers	Cohoon	Dandekar
Davitt	De Boef	Dix	Dolecheck
Drake	Eichhorn	Elgin	Foege
Freeman	Frevert	Gipp	Granzow
Greiner	Heaton	Heddens	Hoffman
Hogg	Horbach	Huseman	Huser
Hutter	Jacobs	Jacoby	Jenkins
Jochum	Jones	Kaufmann	Kressig
Kuhn	Kurtenbach	Lalk	Lensing
Lukan	Lykam	Maddox	May

McCarthy	Mertz	Miller	Murphy
Oldson	Olson, D.	Olson, R.	Olson, S.
Paulsen	Petersen	Pettengill	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Reichert	Sands	Schickel
Schueller	Shomshor	Shoultz	Smith
Soderberg	Struyk	Swaim	Thomas
Tjepkes	Tomenga	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Roberts, Presiding	

The nays were, 8:

Fallon	Ford	Gaskill	Hunter
Mascher	Taylor, D.	Taylor, T.	Wessel-Kroeschell

Absent or not voting and 1:

Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

#### [HOUSE FILE 2758](#) WITHDRAWN

Carroll of Poweshiek asked and received unanimous consent to withdraw [House File 2758](#) from further consideration by the House.

[Senate File 2251](#), a bill for an act directing the department of education and the Iowa department of public health to convene a healthy children task force and providing an effective date, with report of committee recommending passage, was taken up for consideration.

Upmeyer of Hancock offered the following amendment [H-8507](#) filed by her and moved its adoption:

#### [H-8507](#)

- 1 Amend [Senate File 2251](#), as amended, passed, and
- 2 reprinted by the Senate as follows:
- 3 1. Page 1, line 17, by striking the word "Four"
- 4 and inserting the following: "Eight".
- 5 2. Page 1, by striking lines 19 through 26 and
- 6 inserting the following:
- 7 "(1) Four state senators who are the co-

8 chairpersons of the standing senate education and  
9 human resources committees.  
10 (2) Four state representatives, including the  
11 chairpersons of the standing house of representatives  
12 education and human resources committees, and the  
13 ranking members of the standing house of  
14 representatives education and human resources  
15 committees."  
16 3. Page 2, by inserting after line 13 the  
17 following:  
18 "(20) The Iowa occupational therapy association.  
19 (21) The Iowa physical therapy association.  
20 (22) The dean of the school of consumer and family  
21 sciences at the Iowa state university of science and  
22 technology.  
23 (23) The state board of education.  
24 (24) The child development coordinating council.  
25 (25) The Iowa empowerment board.  
26 (26) The Iowa hospital association.  
27 (27) The Iowa optometric association.  
28 (28) The department of human services.  
29 (29) The hawk-i board.  
30 (30) The area education agencies.  
31 (31) The Iowa academy of family physicians.  
32 (32) The Iowa osteopathic medical association.  
33 (33) The access for special kids family resource  
34 center.  
35 (34) The university of Iowa hospitals and clinics'  
36 center for disabilities and development."  
37 4. Page 2, by inserting after line 15 the  
38 following:  
39 "d. One middle school student and one high school  
40 student from each of the five congressional districts  
41 who shall be appointed by the governor."  
42 5. Page 2, line 18, by striking the figure "(19)"  
43 and inserting the following: "(34)".  
44 6. By renumbering as necessary.

Amendment [H-8507](#) was adopted.

Upmeyer of Hancock moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2251](#))

The ayes were, 99:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Carroll	Chambers	Cohoon	Dandekar

Davitt	De Boef	Dix	Dolecheck
Drake	Eichhorn	Elgin	Fallon
Foege	Ford	Freeman	Frevert
Gaskill	Gipp	Granzow	Greiner
Heaton	Heddens	Hoffman	Hogg
Horbach	Hunter	Huseman	Huser
Hutter	Jacobs	Jacoby	Jenkins
Jochum	Jones	Kaufmann	Kressig
Kuhn	Kurtenbach	Lalk	Lensing
Lukan	Lykam	Maddox	Mascher
May	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, R.
Olson, S.	Paulsen	Petersen	Pettengill
Quirk	Raecker	Rants, Spkr.	Rasmussen
Rayhons	Reasoner	Reichert	Sands
Schickel	Schueller	Shomshor	Shoultz
Smith	Soderberg	Struyk	Swaim
Taylor, D.	Taylor, T.	Thomas	Tjepkes
Tomenga	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Wessel-Kroeschell	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Roberts, Presiding	

The nays were, none.

Absent or not voting, 1:

Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

[Senate File 2322](#), a bill for an act relating to the investigation and control of communicable and infectious diseases and notification procedures concerning diseases, health conditions, unusual clusters, or suspicious events which may be the cause of a public health disaster, was taken up for consideration.

Upmeyer of Hancock offered the following amendment [H-8464](#) filed by her and moved its adoption:

[H-8464](#)

1 Amend [Senate File 2322](#), as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 1, by striking lines 29 through 35 and  
 4 inserting the following:  
 5 "NEW SUBSECTION. 0A. "Area quarantine" means  
 6 prohibiting ingress and egress to and from a building  
 7 or buildings, structure or structures, or other  
 8 definable physical location, or portion thereof, to  
 9 prevent or contain the spread of a suspected or  
 10 confirmed quarantinable disease or to prevent or  
 11 contain exposure to a suspected or known chemical,  
 12 biological, radioactive, or other hazardous or toxic  
 13 agent."

Amendment [H-8464](#) was adopted.

Upmeyer of Hancock moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2322](#))

The ayes were, 96:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Carroll	Chambers	Cohoon	Dandekar
Davitt	De Boef	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greiner	Heaton
Heddens	Hoffman	Hogg	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Kaufmann	Kressig	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Mascher	May	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Olson, R.	Olson, S.	Paulsen
Petersen	Pettengill	Quirk	Rants, Spkr.
Rasmussen	Rayhons	Reasoner	Reichert
Sands	Schickel	Schueller	Shomshor
Shoultz	Smith	Soderberg	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tomenga	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Wessel-Kroeschell	Whitaker	Whitead
Wilderdyke	Winckler	Wise	Roberts,
			Presiding

The nays were, none.

Absent or not voting, 4:

Dix

Horbach

Raecker

Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

[Senate File 2364](#), a bill for an act relating to various matters under the purview of the insurance division of the department of commerce including the securities and regulated industries bureau, insurance premium taxes, the uniform securities Act, insurance division procedures, regulation of insurance companies and other entities including administrative penalties, motor vehicle service contracts, county and state mutual insurance associations, reciprocal or interinsurance insurers, consolidation, merger and reinsurance contracts, insurance holding company systems, and cemeteries, with report of committee recommending amendment and passage, was taken up for consideration.

Hoffman of Crawford offered the following amendment [H-8376](#) filed by the committee on commerce-regulation and moved its adoption:

[H-8376](#)

- 1 Amend [Senate File 2364](#), as passed by the Senate, as
- 2 follows:
- 3 1. Page 10, line 13, by striking the words
- 4 "contract or" and inserting the following:
- 5 "contractor".
- 6 2. Page 12, by striking lines 7 through 14.
- 7 3. Page 12, line 15, by striking the figure "16."
- 8 and inserting the following: "15."
- 9 4. Page 78, by inserting after line 1, the
- 10 following:
- 11 "Sec.\_\_\_\_. Section 616.15, Code 2005, is amended
- 12 to read as follows:
- 13 616.15 SURETY COMPANIES.
- 14 1. Suit may be brought against any company or
- 15 corporation furnishing or pretending to furnish
- 16 surety, fidelity, or other bonds in this state, in any

17 county in which the principal place of business of  
18 such company or corporation is maintained in this  
19 state, or in any county wherein is maintained its  
20 general office for the transaction of its Iowa  
21 business, or in the county where the principal resides  
22 at the time of bringing suit, or in the county where  
23 the principal did reside at the time the bond or other  
24 undertaking was executed; and in the case of bonds  
25 furnished by any such company or corporation for any  
26 building or improvement, either public or private,  
27 action may be brought in the county wherein said  
28 building or improvement, or any part thereof is  
29 located.

30 2. The secretary of state shall serve as the agent  
31 for service of process for the purposes of 31 U.S.C. §  
32 9306, of any surety company or corporation for a  
33 surety bond written by that surety company or  
34 corporation for the federal government and issued in  
35 this state as required or permitted under federal law,  
36 if the surety company or corporation is licensed in  
37 this state and cannot be otherwise served with  
38 process. Notwithstanding section 507.14, upon request  
39 of the secretary of state, the commissioner of  
40 insurance shall provide the secretary of state with  
41 the name and address of the person designated for  
42 consent to service of process by the surety company or  
43 corporation which is on file with the commissioner."  
44 5. By renumbering as necessary.

The committee amendment [H-8376](#) was adopted, placing out of order amendment [H-8441](#) filed by Struyk of Pottawattamie and Kurtenbach of Story on March 30, 2006.

Huser of Polk offered amendment [H-8467](#) filed by Huser, et al., as follows:

[H-8467](#)

1 Amend [Senate File 2364](#), as passed by the Senate, as  
2 follows:  
3 1. Page 72, line 3, by striking the word  
4 "subsections" and inserting the following:  
5 "subsection".  
6 2. Page 72, by striking lines 4 through 9.  
7 3. Page 75, line 18, by striking the word "an"  
8 and inserting the following: "~~an~~ a written".  
9 4. Page 75, line 20, by inserting after the word  
10 "a" the following: "public or".  
11 5. Page 75, by striking lines 25 through 30 and  
12 inserting the following:



13 "c. If a governmental subdivision proposes to  
14 enter into an agreement with a public or private  
15 organization pursuant to this subsection to preserve  
16 and protect a cemetery or burial site that is located  
17 on property owned by another person within the  
18 jurisdiction of the governmental subdivision, the  
19 proposed agreement shall be written, and the  
20 governmental subdivision shall provide written notice  
21 by ordinary mail of the proposed agreement to the  
22 property owner at least fourteen days prior to the  
23 date of the meeting at which such proposed agreement  
24 will be authorized. The notice shall include the  
25 location of the cemetery or burial site and a copy of  
26 the proposed agreement, and explain that the property  
27 owner is required to permit members of the public or  
28 private organization reasonable ingress and egress for  
29 the purposes of preserving and protecting the cemetery  
30 or burial site pursuant to the proposed agreement.  
31 The notice shall also include the date, time, and  
32 place of the meeting and a statement that the property  
33 owner has a right to attend the meeting and to comment  
34 regarding the proposed agreement.  
35 d. Subject to chapter 670, a governmental  
36 subdivision that enters into an agreement with a  
37 public or private organization pursuant to this  
38 subsection is liable for any personal injury or  
39 property damage that occurs in connection with the  
40 preservation or protection of the cemetery or burial  
41 site or access to the cemetery or burial site by the  
42 governmental subdivision or the public or private  
43 organization.  
44 For the purposes of this paragraph, "liable" means  
45 liability for every civil wrong which results in  
46 wrongful death or injury to a person or injury to  
47 property or injury to personal or property rights and  
48 includes but is not restricted to actions based upon  
49 negligence; error or omission; nuisance; breach of  
50 duty, whether statutory or other duty; or denial or

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1 impairment of any right under any constitutional  
2 provision, statute, or rule of law.  
3 e. A property owner who is required to permit  
4 members of a public or private organization reasonable  
5 ingress and egress for the purpose of preserving or  
6 protecting a cemetery or burial site on that owner's  
7 property and who acts in good faith and in a  
8 reasonable manner pursuant to this subsection is not  
9 liable for any personal injury or property damage that  
10 occurs in connection with the preservation or  
11 protection of the cemetery or burial site or access to

12 the cemetery or burial site.  
13 f. For the purposes of this subsection, reasonable  
14 ingress and egress to a cemetery or burial site shall  
15 include the following:  
16 (1) A member of a public or private organization  
17 that has entered into a written agreement with the  
18 governmental subdivision who desires to visit such a  
19 cemetery or burial site shall give the property owner  
20 at least ten days' written notice of the intended  
21 visit.  
22 (2) If the property owner cannot provide  
23 reasonable access to the cemetery or burial site on  
24 the desired date, the property owner shall provide  
25 reasonable alternative dates when the property owner  
26 can provide access to the member.  
27 (3) A property owner is not required to make any  
28 improvements to that person's property to satisfy the  
29 requirement to provide reasonable access to a cemetery  
30 or burial site pursuant to this subsection."  
31 6. By striking page 76, line 3, through page 77,  
32 line 26.  
33 7. By renumbering as necessary.

Kurtenbach of Story offered the following amendment [H-8504](#), to amendment [H-8467](#), filed by him and moved its adoption:

[H-8504](#)

1 Amend the amendment, [H-8467](#), to [Senate File 2364](#),  
2 as passed by the Senate, as follows:  
3 1. Page 1, by striking lines 9 and 10 and  
4 inserting the following:  
5 "\_\_\_ Page 75, line 20, by striking the word "a"  
6 and inserting the following: "a the owner of the  
7 property on which the cemetery or burial site is  
8 located or to a public or".  
9 \_\_\_ Page 75, line 21, by inserting after the  
10 word "preservation." the following: "The governmental  
11 subdivision shall not enter into an agreement with a  
12 public or private organization to preserve and protect  
13 the cemetery or burial site unless the property owner  
14 has been offered the opportunity to enter into such an  
15 agreement and has declined to do so."  
16 2. By renumbering as necessary.

Amendment [H-8504](#) was adopted.

On motion by Huser of Polk amendment [H-8467](#), as amended, was adopted.

Kurtenbach of Story asked and received unanimous consent to withdraw amendment [H-8505](#) filed by him on April 5, 2006, placing out of order amendment [H-8513](#) filed by Kurtenbach of Story from the floor.

Gipp of Winneshiek asked and received unanimous consent that [Senate File 2364](#) be deferred.

#### IMMEDIATE MESSAGES

Gipp of Winneshiek asked and received unanimous consent that the following bills be immediately messaged to the Senate: **Senate Files 2251, 2322 and 2391.**

#### Ways and Means Calendar

[House File 2786](#), a bill for an act relating to civil actions and the foreclosure of real estate mortgages, and providing fees, was taken up for consideration.

Swaim of Davis offered amendment [H-8509](#) filed by him and Kaufmann of Cedar from the floor as follows:

#### [H-8509](#)

- 1 Amend [House File 2786](#) as follows:
- 2 1. Page 1, by striking lines 2 through 7 and
- 3 inserting the following: "Supplement 2005, is amended
- 4 by striking the subsection."
- 5 2. Page 1, by striking lines 17 through 22 and
- 6 inserting the following: "for rent ~~or judgment~~
- 7 ~~assigned by a receiver of a closed bank or rendered~~
- 8 ~~upon credits assigned by the receiver of a closed bank~~
- 9 ~~when the assignee is not a trustee for depositors or~~
- 10 ~~creditors of the bank, the reconstruction finance~~
- 11 ~~corporation or any other federal governmental agency~~
- 12 ~~to which the bank or the receiver is or may be~~
- 13 ~~indebted shall not~~ be enforced and".
- 14 3. Page 2, line 3, by inserting after the word
- 15 "force" the following: "against the property subject
- 16 to foreclosure only".
- 17 4. Page 2, by striking lines 12 through 15 and
- 18 inserting the following: "case shall not become a
- 19 lien on real property until either the identity of the
- 20 judgment creditor becomes public record, or until the
- 21 judgment creditor, in a public document in the case in

22 which judgment is entered, designates an agent and  
23 office, consistent with the requirements of section  
24 490.501, on which process on the judgment creditor may  
25 be served. Service may be made on the agent in the  
26 same manner as service may be made on a corporate  
27 agent pursuant to section 490.504. An agent who has  
28 resigned without designating a successor agent and  
29 office and who is otherwise unavailable for service  
30 may be served in the manner provided in section  
31 490.504, subsection 2, at the agent's office of  
32 record."

33 5. Page 2, line 27, by inserting after the word  
34 "repeated" the following: "and diligent".

35 6. Page 3, by striking lines 8 through 17 and  
36 inserting the following: "person. A party who has  
37 appeared in the foreclosure may submit a written bid,  
38 which shall include a facsimile number or electronic  
39 mail address where the party can be notified of the  
40 results of the sale. If a party submitting a winning  
41 written bid does not pay the amount of the bid in  
42 certified funds in the manner in which the sheriff in  
43 the notice directs, such bid shall be deemed canceled  
44 and the sheriff shall certify the next highest bidder  
45 as the successful bidder of the sale either within  
46 twenty-four hours for an electronic funds transfer or  
47 forty-eight hours otherwise, of notification of the  
48 sale results. A sheriff may refuse to accept written  
49 bids from a bidder other than the judgment creditor if  
50 the bidder or the bidder's agent in the action has

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1 demonstrated a pattern of nonpayment on previously  
2 accepted bids."

3 7. By striking page 3, line 18, through page 4,  
4 line 26.

5 8. Page 4, line 27, by striking the word "PRIOR"  
6 and inserting the following: "SUPERIOR".

7 9. Page 5, line 8, by inserting after the word  
8 "fees," the following: "A guarantor filing such a  
9 bond shall be subrogated to any defenses which the  
10 plaintiff may have against the adverse claimant,  
11 including but not limited to a defense of lack of  
12 equity in the mortgaged property to secure the adverse  
13 claim in its proper priority."

14 10. Page 5, line 23, by striking the words  
15 "nontitleholding claimant" and inserting the  
16 following: "judgment creditor".

17 11. Page 5, by striking lines 25 through 32 and  
18 inserting the following: "form advising the creditor  
19 that the property that is the subject of the  
20 foreclosure action shall be foreclosed and describing

21 the creditor's interest in the action and that unless  
22 such creditor intervenes in the foreclosure action  
23 such creditor shall lose the creditor's interest in  
24 the mortgaged property. Unless the creditor  
25 intervenes within thirty days of the service of  
26 notice, the court may adjudicate the creditor's rights  
27 against the property as if the creditor had".

28 12. Page 5, line 34, by inserting after the word  
29 "defendant." the following: "If a creditor cannot be  
30 located for personal service, the plaintiff may, at  
31 any time prior to sixty days before the date of trial,  
32 amend the petition as a matter of right to add the  
33 creditor as a defendant for service by publication as  
34 provided by rule."

35 13. Page 6, line 2, by striking the word  
36 "claimant" and inserting the following: "creditor".

37 14. Page 6, line 10, by striking the word  
38 "claimant's" and inserting the following:  
39 "creditor's".

40 15. Page 6, by striking line 25 and inserting the  
41 following: "and before the mortgagee's rights become  
42 unenforceable by operation of the statute of  
43 limitations, the judgment creditor, or the judgment  
44 creditor who is the successful bidder at the  
45 sheriff's".

46 16. Page 6, line 30, by inserting after the word  
47 "action" the following: "which the plaintiff requests  
48 returned".

49 17. By striking page 6, line 33, through page 7,  
50 line 1, and inserting the following: "foreclosure and

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1 the rights of all persons with an interest in the  
2 property may be enforced as if the foreclosure had not  
3 been filed. However, any findings of fact or law  
4 shall be preclusive for purposes of any future action  
5 unless the court, upon hearing, rules otherwise. The  
6 mortgagor shall be assessed costs,".

7 18. Page 7, by striking lines 6 and 7 and  
8 inserting the following: "plaintiff may apply to the  
9 court for an order approving an offer for".

10 19. Page 7, line 10, by inserting after the  
11 figure "654.15B." the following: "A copy of the offer  
12 shall be attached to the application and the  
13 application shall contain a written consent to the  
14 proposed sale by all equitable titleholders who have  
15 not abandoned the property."

16 20. Page 7, by striking lines 15 and 16 and  
17 inserting the following: "654.8, otherwise provide  
18 adequate protection to senior creditors, or establish  
19 that a sheriff's sale is substantially more likely

20 than the proposed sale to provide the creditor with  
21 more favorable satisfaction of its lien. Pending  
22 resolution of the rights of the parties".  
23 21. Page 7, by inserting after line 21 the  
24 following:  
25 "Sec. \_\_\_\_ Section 655.5, Code 2005, is amended by  
26 striking the section and inserting in lieu thereof the  
27 following:  
28 655.5 INSTRUMENT OF SATISFACTION.  
29 When the judgment is paid in full, the mortgagee  
30 shall file with the clerk a satisfaction of judgment  
31 which shall release the mortgage underlying the  
32 action. A mortgagee who fails to file a satisfaction  
33 within thirty days of receiving a written request  
34 shall be subject to a penalty of one hundred dollars  
35 plus reasonable attorney fees incurred by the  
36 aggrieved party, to be recovered in an action for the  
37 satisfaction or acknowledged by the party aggrieved."  
38 22. Page 7, by striking line 30 and inserting the  
39 following: "617.10 and shall commence on the filing  
40 of proof of service on the mortgagors and terminate on  
41 the filing of a rejection pursuant to section 655A.6,  
42 an affidavit of completion pursuant to section 655A.7,  
43 or the expiration of ninety days from completion of  
44 service on the mortgagors, whichever occurs first.  
45 Sec. \_\_\_\_ Section 655A.9, Code 2005, is amended to  
46 read as follows:  
47 655A.9 APPLICATION OF CHAPTER.  
48 This chapter does not apply to real estate used for  
49 an agricultural purpose as defined in section 535.13,  
50 or to a one or two family dwelling occupied by an

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1 equitable titleholder."  
2 23. Page 7, by inserting after line 31 the  
3 following:  
4 "Sec. \_\_\_\_ APPLICABILITY.  
5 1. Except as provided in subsection 2, this Act  
6 applies to actions commenced on or after July 1, 2006.  
7 2. The section of this Act enacting section  
8 624.23, subsection 7, applies to judgments entered on  
9 or after July 1, 2007."  
10 24. Title page, line 2, by inserting after the  
11 word "fees" the following: "and applicability  
12 provisions".

Swaim of Davis offered the following amendment [H-8512](#), to amendment [H-8509](#), filed by him and Kaufmann of Cedar from the floor and moved its adoption:

[H-8512](#)

- 1 Amend the amendment, [H-8509](#), to [House File 2786](#) as  
 2 follows:  
 3 1. Page 3, line 50, by inserting after the word  
 4 "dwelling" the following: "which is, at the time of  
 5 the initiation of the foreclosure,".  
 6 2. Page 4, by inserting after line 1 the  
 7 following:  
 8 "\_\_\_\_. Page 7, line 24, by striking the word  
 9 "mortgagor" and inserting the following: "mortgagee".  
 10 \_\_\_\_\_. Page 7, line 26, by striking the word  
 11 "mortgagee" and inserting the following: "mortgagor".  
 12 3. By renumbering as necessary.

Amendment [H-8512](#) was adopted.

On motion by Swaim of Davis amendment [H-8509](#), as amended, was adopted.

Kaufmann of Cedar moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2786](#))

The ayes were, 98:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Carroll	Chambers	Cohoon	Dandekar
Davitt	De Boef	Dix	Dolecheck
Drake	Eichhorn	Elgin	Fallon
Foege	Ford	Freeman	Frevert
Gaskill	Gipp	Granzow	Greiner
Heaton	Heddens	Hoffman	Hogg
Horbach	Hunter	Huseman	Huser
Hutter	Jacobs	Jacoby	Jenkins
Jochum	Jones	Kaufmann	Kressig
Kuhn	Kurtenbach	Lalk	Lensing
Lukan	Lykam	Maddox	Mascher
May	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, S.
Paulsen	Petersen	Pettengill	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Reichert	Sands	Schickel
Schueller	Shomshor	Shoultz	Smith
Soderberg	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Tjepkes	Tomenga

Tymeson	Upmeyer	Van Engelenhoven	Van Fossen, J.K.
Van Fossen, J.R.	Watts	Wendt	Wessel-Kroeschell
Whitaker	Whitead	Wilderdyke	Winckler
Wise	Roberts,		
	Presiding		

The nays were, 1:

Olson, R.

Absent or not voting, 1:

Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

### SENATE AMENDMENT CONSIDERED

May of Dickinson called up for consideration [House File 2612](#), a bill for an act providing criminal penalties for the failure of a vessel operator to offer assistance and information at the scene of a collision, accident, or casualty, amended by the Senate, and moved that the House concur in the following Senate amendment [H-8303](#):

#### [H-8303](#)

1 Amend [House File 2612](#), as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 1, by inserting after line 22 the  
4 following:  
5 "Sec.\_\_\_\_. Section 462A.26, Code 2005, is amended  
6 by adding the following new subsection:  
7 **NEW SUBSECTION.** 4. Failure of the operator of any  
8 vessel involved in a collision, accident, or other  
9 casualty, to comply with the requirements of this  
10 section, is punishable as follows:  
11 a. In the event of a collision, accident, or other  
12 casualty resulting only in property damage, the  
13 operator is guilty upon conviction of a simple  
14 misdemeanor.  
15 b. In the event of a collision, accident, or other  
16 casualty resulting in an injury to a person, the  
17 operator is guilty upon conviction of a serious  
18 misdemeanor.  
19 c. In the event of a collision, accident, or other  
20 casualty resulting in a serious injury to a person,  
21 the operator is guilty upon conviction of an  
22 aggravated misdemeanor.



- 23 d. In the event of a collision, accident, or other  
24 casualty resulting in the death of a person, the  
25 operator is guilty upon conviction of a class "D"  
26 felony."  
27 2. Title page, line 3, by inserting after the  
28 word "casualty" the following: ", and for a violation  
29 of certain operating rules for vessels involved in a  
30 collision, accident, or other casualty".  
31 3. By renumbering as necessary.

The motion lost and the House refused to concur in the Senate amendment [H-8303](#).

#### SENATE AMENDMENT CONSIDERED

Smith of Marshall called up for consideration [House File 722](#), a bill for an act providing for the creation of an electronic drug database, establishing fees, providing penalties, and providing an effective date, amended by the Senate, and moved that the House concur in the following Senate amendment [H-8438](#):

#### [H-8438](#)

- 1 Amend [House File 722](#), as passed by the House, as  
2 follows:  
3 1. By striking everything after the enacting  
4 clause and inserting the following:  
5 "Section 1. Section 22.7, Code Supplement 2005, is  
6 amended by adding the following new subsection:  
7 NEW SUBSECTION. 52. The information contained in  
8 the information program established in section  
9 124.510A, except to the extent that disclosure is  
10 authorized pursuant to section 124.510C.  
11 Sec. 2. NEW SECTION. 124.510A INFORMATION  
12 PROGRAM FOR DRUG PRESCRIBING AND DISPENSING.  
13 Contingent upon the receipt of funds pursuant to  
14 section 124.510G sufficient to carry out the purposes  
15 of this division, the board, in conjunction with the  
16 advisory council created in section 124.510E, shall  
17 establish and maintain an information program for drug  
18 prescribing and dispensing. The program shall collect  
19 from pharmacies dispensing information for controlled  
20 substances identified pursuant to section 124.510D,  
21 subsection 1, paragraph "g". The information  
22 collected shall be used by prescribing practitioners  
23 and pharmacists on a need-to-know basis for purposes  
24 of improving patient health care by facilitating early  
25 identification of patients who may be at risk for  
26 addiction, or who may be using, abusing, or diverting

27 drugs for unlawful or otherwise unauthorized purposes  
28 at risk to themselves and others, or who may be  
29 appropriately using controlled substances lawfully  
30 prescribed for them but unknown to the practitioner.  
31 For purposes of this division, "prescribing  
32 practitioner" means a practitioner who has prescribed  
33 or is contemplating the authorization of a  
34 prescription for the patient about whom information is  
35 requested, and "pharmacist" means a practicing  
36 pharmacist who is actively engaged in and responsible  
37 for the pharmaceutical care of the patient about whom  
38 information is requested. The board shall collect,  
39 store, and disseminate program information consistent  
40 with security criteria established by rule, including  
41 use of appropriate encryption or other industry-  
42 recognized security technology. The board shall seek  
43 any federal waiver necessary to implement the  
44 provisions of the program.  
45 Sec. 3. NEW SECTION. 124.510B INFORMATION  
46 REPORTING.  
47 1. Each licensed pharmacy that dispenses  
48 controlled substances identified pursuant to section  
49 124.510D, subsection 1, paragraph "g", to patients in  
50 the state, and each licensed pharmacy located in the

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1 state that dispenses such controlled substances  
2 identified pursuant to section 124.510D, subsection 1,  
3 paragraph "g", to patients inside or outside the  
4 state, unless specifically excepted in this section or  
5 by rule, shall submit the following prescription  
6 information to the program:  
7 a. Pharmacy identification.  
8 b. Patient identification.  
9 c. Prescriber identification.  
10 d. The date the prescription was issued by the  
11 prescriber.  
12 e. The date the prescription was dispensed.  
13 f. An indication of whether the prescription  
14 dispensed is new or a refill.  
15 g. Identification of the drug dispensed.  
16 h. Quantity of the drug dispensed.  
17 i. The number of days' supply of the drug  
18 dispensed.  
19 j. Serial or prescription number assigned by the  
20 pharmacy.  
21 k. Type of payment for the prescription.  
22 1. Other information identified by the board and  
23 advisory council by rule.  
24 2. Information shall be submitted electronically  
25 in a secure format specified by the board unless the

26 board has granted a waiver and approved an alternate  
27 secure format.

28 3. Information shall be timely transmitted as  
29 designated by the board and advisory council by rule,  
30 unless the board grants an extension. The board may  
31 grant an extension if either of the following occurs:

32 a. The pharmacy suffers a mechanical or electronic  
33 failure, or cannot meet the deadline established by  
34 the board for other reasons beyond the pharmacy's  
35 control.

36 b. The board is unable to receive electronic  
37 submissions.

38 4. This section shall not apply to a prescriber  
39 furnishing, dispensing, supplying, or administering  
40 drugs to the prescriber's patient, or to dispensing by  
41 a licensed pharmacy for the purposes of inpatient  
42 hospital care, inpatient hospice care, or long-term  
43 residential facility patient care.

44 Sec. 4. NEW SECTION. 124.510C INFORMATION  
45 ACCESS.

46 1. The board may provide information from the  
47 program to the following:

48 a. (1) A pharmacist or prescriber who requests  
49 the information and certifies in a form specified by  
50 the board that it is for the purpose of providing

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1 medical or pharmaceutical care to a patient of the  
2 pharmacist or prescriber. Neither a pharmacist nor a  
3 prescriber may delegate program information access to  
4 another individual.

5 (2) Notwithstanding subparagraph (1), a prescriber  
6 may delegate program information access to another  
7 licensed health care professional only in emergency  
8 situations where the patient would be placed in  
9 greater jeopardy if the prescriber was required to  
10 access the information personally.

11 b. An individual who requests the individual's own  
12 program information in accordance with the procedure  
13 established in rules of the board and advisory council  
14 adopted under section 124.510D.

15 c. Pursuant to an order, subpoena, or other means  
16 of legal compulsion for access to or release of  
17 program information that is issued based upon a  
18 determination of probable cause in the course of a  
19 specific investigation of a specific individual.

20 2. The board shall maintain a record of each  
21 person that requests information from the program.  
22 Pursuant to rules adopted by the board and advisory  
23 council under section 124.510D, the board may use the  
24 records to document and report statistical

25 information.

26 3. Information contained in the program and any  
27 information obtained from it, and information  
28 contained in the records of requests for information  
29 from the program, is privileged and strictly  
30 confidential information. Such information is not a  
31 public record pursuant to chapter 22, and is not  
32 subject to discovery, subpoena, or other means of  
33 legal compulsion for release except as provided in  
34 this division. Information from the program shall not  
35 be released, shared with an agency or institution, or  
36 made public except as provided in this division.

37 4. Information collected for the program shall be  
38 retained in the program for four years from the date  
39 of dispensing. The information shall then be  
40 destroyed.

41 5. A pharmacist or other dispenser making a report  
42 to the program reasonably and in good faith pursuant  
43 to this division is immune from any liability, civil,  
44 criminal, or administrative, which might otherwise be  
45 incurred or imposed as a result of the report.

46 6. Nothing in this section shall require a  
47 pharmacist or prescriber to obtain information about a  
48 patient from the program. A pharmacist or prescriber  
49 does not have a duty and shall not be held liable in  
50 damages to any person in any civil or derivative

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1 criminal or administrative action for injury, death,  
2 or loss to person or property on the basis that the  
3 pharmacist or prescriber did or did not seek or obtain  
4 or use information from the program. A pharmacist or  
5 prescriber acting reasonably and in good faith is  
6 immune from any civil, criminal, or administrative  
7 liability that might otherwise be incurred or imposed  
8 for requesting or receiving or using information from  
9 the program.

10 7. The board shall not charge a fee to a pharmacy,  
11 pharmacist, or prescriber for the establishment,  
12 maintenance, or administration of the program,  
13 including costs for forms required to submit  
14 information to or access information from the program,  
15 except that the board may charge a fee to an  
16 individual who requests the individual's own program  
17 information. A fee charged pursuant to this  
18 subsection shall not exceed the actual cost of  
19 providing the requested information and shall be  
20 considered a repayment receipt as defined in section  
21 8.2.

22 Sec. 5. NEW SECTION. 124.510D RULES AND  
23 REPORTING.

24 1. The board and advisory council shall jointly  
25 adopt rules in accordance with chapter 17A to carry  
26 out the purposes of, and to enforce the provisions of,  
27 this division. The rules shall include but not be  
28 limited to the development of procedures relating to:  
29 a. Identifying each patient about whom information  
30 is entered into the program.  
31 b. An electronic format for the submission of  
32 information from pharmacies.  
33 c. A waiver to submit information in another  
34 format for a pharmacy unable to submit information  
35 electronically.  
36 d. An application by a pharmacy for an extension  
37 of time for transmitting information to the program.  
38 e. The submission by an authorized requestor of a  
39 request for information and a procedure for the  
40 verification of the identity of the requestor.  
41 f. Use by the board or advisory council of the  
42 program request records required by section 124.510C,  
43 subsection 2, to document and report statistical  
44 information.  
45 g. Including all Schedule II controlled substances  
46 and those substances in Schedules III and IV that the  
47 advisory council and board determine can be addictive  
48 or fatal if not taken under the proper care and  
49 direction of a prescriber.  
50 h. Access by a pharmacist or prescriber to

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1 information in the program pursuant to a written  
2 agreement with the board and advisory council.  
3 i. The correction or deletion of erroneous  
4 information in the program.  
5 2. Beginning January 1, 2007, and annually by  
6 January 1 thereafter, the board and advisory council  
7 shall present to the general assembly and the governor  
8 a report prepared consistent with section 124.510E,  
9 subsection 3, paragraph "d", which shall include but  
10 not be limited to the following:  
11 a. The cost to the state of implementing and  
12 maintaining the program.  
13 b. Information from pharmacies, prescribers, the  
14 board, the advisory council, and others regarding the  
15 benefits or detriments of the program.  
16 c. Information from pharmacies, prescribers, the  
17 board, the advisory council, and others regarding the  
18 board's effectiveness in providing information from  
19 the program.  
20 Sec. 6. NEW SECTION. 124.510E ADVISORY COUNCIL  
21 ESTABLISHED.  
22 An advisory council shall be established to provide

23 oversight to the board and the program and to manage  
24 program activities. The board and advisory council  
25 shall jointly adopt rules specifying the duties and  
26 activities of the advisory council and related  
27 matters.

28 1. The council shall consist of eight members  
29 appointed by the governor. The members shall include  
30 three licensed pharmacists, four physicians licensed  
31 under chapter 148, 150, or 150A, and one licensed  
32 prescriber who is not a physician. The governor shall  
33 solicit recommendations for council members from Iowa  
34 health professional licensing boards, associations,  
35 and societies. The license of each member appointed  
36 to and serving on the advisory council shall be  
37 current and in good standing with the professional's  
38 licensing board.

39 2. The council shall advance the goals of the  
40 program, which include identification of misuse and  
41 diversion of controlled substances identified pursuant  
42 to section 124.510D, subsection 1, paragraph "g", and  
43 enhancement of the quality of health care delivery in  
44 this state.

45 3. Duties of the council shall include but not be  
46 limited to the following:

47 a. Ensuring the confidentiality of the patient,  
48 prescriber, and dispensing pharmacist and pharmacy.  
49 b. Respecting and preserving the integrity of the  
50 patient's treatment relationship with the patient's

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1 health care providers.

2 c. Encouraging and facilitating cooperative  
3 efforts among health care practitioners and other  
4 interested and knowledgeable persons in developing  
5 best practices for prescribing and dispensing  
6 controlled substances and in educating health care  
7 practitioners and patients regarding controlled  
8 substance use and abuse.

9 d. Making recommendations regarding the continued  
10 benefits of maintaining the program in relationship to  
11 cost and other burdens to the patient, prescriber,  
12 pharmacist, and the board. The council's  
13 recommendations shall be included in reports required  
14 by section 124.510D, subsection 2.

15 e. One physician and one pharmacist member of the  
16 council shall include in their duties the  
17 responsibility for monitoring and ensuring that  
18 patient confidentiality, best interests, and civil  
19 liberties are at all times protected and preserved  
20 during the existence of the program.

21 4. Members of the advisory council shall be

22 eligible to request and receive actual expenses for  
23 their duties as members of the advisory council,  
24 subject to reimbursement limits imposed by the  
25 department of administrative services, and shall also  
26 be eligible to receive a per diem compensation as  
27 provided in section 7E.6, subsection 1.

28 Sec. 7. NEW SECTION. 124.510F EDUCATION AND  
29 TREATMENT.

30 The program for drug prescribing and dispensing  
31 shall include education initiatives and outreach to  
32 consumers, prescribers, and pharmacists, and shall  
33 also include assistance for identifying substance  
34 abuse treatment programs and providers. The board and  
35 advisory council shall adopt rules, as provided under  
36 section 124.510D, to implement this section.

37 Sec. 8. NEW SECTION. 124.510G DRUG INFORMATION  
38 PROGRAM FUND.

39 The drug information program fund is established to  
40 be used by the board to fund or assist in funding the  
41 program. The board may make deposits into the fund  
42 from any source, public or private, including grants  
43 or contributions of money or other items of value,  
44 which it determines necessary to carry out the  
45 purposes of this division. Moneys received by the  
46 board to establish and maintain the program must be  
47 used for the expenses of administering this division.  
48 Notwithstanding section 8.33, amounts contained in the  
49 fund that remain unencumbered or unobligated at the  
50 close of the fiscal year shall not revert but shall

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1 remain available for expenditure for the purposes  
2 designated in future years.

3 Sec. 9. NEW SECTION. 124.510H PROHIBITED ACTS –  
4 PENALTIES.

5 1. FAILURE TO COMPLY WITH REQUIREMENTS. A  
6 pharmacist, pharmacy, or prescriber who knowingly  
7 fails to comply with the confidentiality requirements  
8 of this division or who delegates program information  
9 access to another individual is subject to  
10 disciplinary action by the appropriate professional  
11 licensing board. A pharmacist or pharmacy that  
12 knowingly fails to comply with other requirements of  
13 this division is subject to disciplinary action by the  
14 board. Each licensing board may adopt rules in  
15 accordance with chapter 17A to implement the  
16 provisions of this section.

17 2. UNLAWFUL ACCESS, DISCLOSURE, OR USE OF  
18 INFORMATION. A person who intentionally or knowingly  
19 accesses, uses, or discloses program information in  
20 violation of this division, unless otherwise

21 authorized by law, is guilty of a class "D" felony.  
 22 This section shall not preclude a pharmacist or  
 23 prescriber who requests and receives information from  
 24 the program consistent with the requirements of this  
 25 chapter from otherwise lawfully providing that  
 26 information to any other person for medical or  
 27 pharmaceutical care purposes.  
 28 Sec. 10. Sections 124.510A through 124.510H are  
 29 repealed June 30, 2009.  
 30 Sec. 11. EFFECTIVE DATE. This Act, being deemed  
 31 of immediate importance, takes effect upon enactment."  
 32 2. Title page, by striking lines 1 through 3 and  
 33 inserting the following: "An Act providing for the  
 34 establishment of an information program for drug  
 35 prescribing and dispensing, providing penalties, and  
 36 providing an effective date."  
 37 3. By renumbering as necessary.

The motion prevailed and the House concurred in the Senate amendment [H-8438](#).

Smith of Marshall moved that the bill, as amended by the Senate and concurred in by the House, be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 722](#))

The ayes were, 99:

Alons	Anderson	Arnold	Baudler
Bell	Berry	Boal	Bukta
Carroll	Chambers	Cphoon	Dandekar
Davitt	De Boef	Dix	Dolecheck
Drake	Eichhorn	Elgin	Fallon
Foege	Ford	Freeman	Frevert
Gaskill	Gipp	Granzow	Greiner
Heaton	Heddens	Hoffman	Hogg
Horbach	Hunter	Huseman	Huser
Hutter	Jacobs	Jacoby	Jenkins
Jochum	Jones	Kaufmann	Kressig
Kuhn	Kurtenbach	Lalk	Lensing
Lukan	Lykam	Maddox	Mascher
May	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, R.
Olson, S.	Paulsen	Petersen	Pettengill
Quirk	Raecker	Rants, Spkr.	Rasmussen
Rayhons	Reasoner	Reichert	Sands
Schickel	Schueller	Shomshor	Shoultz



Smith	Soderberg	Struyk	Swaim
Taylor, D.	Taylor, T.	Thomas	Tjepkes
Tomenga	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Wessel-Kroeschell	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Roberts, Presiding	

The nays were, none.

Absent or not voting, 1:

Zirkelbach

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

#### IMMEDIATE MESSAGES

Gipp of Winneshiek asked and received unanimous consent that the following bills be immediately messaged to the Senate: **House Files 722, 2612 and 2786.**

On motion by Gipp of Winneshiek, the House was recessed at 11:15 a.m., until the conclusion of the meeting on government oversight.

#### AFTERNOON SESSION

The House reconvened at 1:53 p.m., Speaker pro tempore Carroll in the chair.

The House stood at ease at 1:53 p.m., until the fall of the gavel.

The House resumed session at 2:04 p.m., Boal of Polk in the chair.

#### EXPLANATION OF VOTE

I was necessarily absent from the House chamber on April 6, 2006. Had I been present, I would have voted "aye" on [Senate File 2322](#).

RAECKER of Polk

### PRESENTATION OF VISITORS

The Speaker announced that the following visitors were present in the House chamber:

Thirty-three students from Graettinger School, Terril, Iowa, accompanied by teacher Joann Gano, Principal Jared Cecil and superintendent Dan Mart. By May of Dickinson and Frevert of Palo Alto.

### CERTIFICATES OF RECOGNITION

MR. SPEAKER: The Chief Clerk of the House respectfully reports that certificates of recognition have been issued as follows.

MARGARET A. THOMSON  
Chief Clerk of the House

- 2006\1344 Harriet Vande Hoef, Sibley – For celebrating her 80<sup>th</sup> birthday.
- 2006\1345 Larry Kisor, Sioux City – For his 35 years as band instructor, with the last 21 years of instruction at North High School, for his admirable devotion to music education, and the values of self-confidence, hard work and commitment and dedication he has instilled in his students.
- 2006\1346 Mr. and Mrs. James Stuhler, Bettendorf – For celebrating their 50<sup>th</sup> wedding anniversary.
- 2006\1347 Mr. and Mrs. Leon Hubble, Bettendorf – For celebrating their 61<sup>st</sup> wedding anniversary.
- 2006\1348 Mr. and Mrs. Edwin Kerns, Bettendorf – For celebrating their 75<sup>th</sup> wedding anniversary.

### HOUSE STUDY BILL SUBCOMMITTEE ASSIGNMENTS

#### [House Study Bill 777](#)

Ways and Means: Kurtenbach, Chair; Huser and Struyk.

#### [House Study Bill 778](#)

Ways and Means: Tymeson, Chair; Davitt and Kaufmann.

## COMMITTEE RECOMMENDATIONS

MR. SPEAKER: The Chief Clerk of the House respectfully reports that the following committee recommendations have been received and are on file in the office of the Chief Clerk.

MARGARET A. THOMSON  
Chief Clerk of the House

## COMMITTEE ON WAYS AND MEANS

**Committee Bill** (Formerly [House File 2584](#)), relating to devices used for weighing and measuring, by providing for the regulation of the devices, motor fuel, and persons who service the devices, and providing for fees and penalties.

Fiscal Note is not required.

Recommended **Amend and Do Pass** April 5, 2006.

**Committee Bill** (Formerly [House Study Bill 776](#)), relating to the policy and technical administration of the tax and related laws by the department of revenue, including administration of and tax exemptions under the income, sales, use, and property taxes, updating the streamlined sales and use tax, and including effective and retroactive applicability date provisions.

Fiscal Note is not required.

Recommended **Amend and Do Pass** April 5, 2006.

## AMENDMENTS FILED

<a href="#">H-8510</a>	<a href="#">H.F. 2770</a>	Struyk of Pottawattamie
<a href="#">H-8511</a>	<a href="#">H.F. 2770</a>	Huser of Polk
		Wise of Lee
		Thomas of Clayton
<a href="#">H-8514</a>	<a href="#">H.F. 2752</a>	Alons of Sioux
<a href="#">H-8515</a>	<a href="#">S.F. 2319</a>	Pettengill of Benton
<a href="#">H-8516</a>	<a href="#">S.F. 2369</a>	Dolecheck of Ringgold

On motion by Dolecheck of Ringgold the House adjourned at 2:04 p.m., until 9:00 a.m., Friday, April 7, 2006.